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8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

11 Consumer Financial Protection
12 Bureau,

13 Plaintiff,

14 v.

15 D and D Marketing, Inc., d/b/a
16 T3Leads, *et al.*,

17 Defendants.
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Case No. 2:15-cv-09692-PSG-E

Hon. Philip S. Gutierrez

**JOINT STIPULATION ADDRESSING
MEDIATION AND DISCOVERY**

Scheduling Conf.: June 5, 2017; 2:00 p.m.

Courtroom 6A, 350 West 1st Street, 6th Floor,
Los Angeles, California 90012

1 Counsel for Plaintiff Consumer Financial Protection Bureau (the “Bureau”)
2 and Defendants D and D Marketing d/b/a T3Leads (“T3”), Marina Demirchyan,
3 Grigor Demirchyan, Dmitry Fomichev, and Davit Gasparyan (a/k/a David
4 Gasparyan) (“Defendants” and collectively with the Bureau, the “Parties”) submit
5 this Joint Stipulation addressing mediation and discovery in accordance with this
6 Court’s Order (ECF No. 84).

7 **I. Mediation**

8 The Parties have agreed to participate in mediation conducted by the
9 Honorable George H. King (Ret.). That mediation is scheduled to commence on
10 June 28, 2017 at 9 a.m. at JAMS in Los Angeles, California. All parties have
11 expressed openness to settlement discussions in advance of that mediation.

12 With respect to mediation costs and fees, the Parties agree that Plaintiff is to
13 pay no more than \$3,499 or 35%, whichever is less, with the balance thereafter split
14 equally between the three sets of Defendants.

15 The Parties agree that mediation will proceed no matter the disposition of the
16 motion filed by certain Defendants to stay the case pending disposition of appeal
17 (ECF Nos. 90, 90-1, 90-2, 91).

18 **II. Status of Discovery**

19 **A. Discovery Hearing**

20 The Parties participated in a status conference in front of the Honorable
21 Charles F. Eick on May 26, 2017. Judge Eick made the following rulings after that
22 status conference (ECF No. 89):

23 (1) discovery will not be phased in the manner requested by
24 Defendants;

1 (2) the number of depositions will be limited to thirty (30)
2 depositions per side, absent agreement of the parties or further order
3 of the Court;

4 (3) each deposition will be limited to seven (7) hours in length,
5 absent agreement of the parties or further order of the Court;

6 (4) as soon as practicable, the Parties will file a stipulated proposed
7 protective order for confidential information or, failing agreement, a
8 motion for protective order after compliance with Local Rule 37.

9 Judge Eick also directed the Parties to file, on or before June 12,
10 2017, a stipulation memorializing the Bureau's agreement to restrict the
11 scope of Plaintiff's claimed remedies, as discussed at the conference. (ECF
12 No. 89).

13 The Parties are negotiating a proposed protective order and expect
14 to submit a joint proposal or separate proposals within ten days.

15 **1. The Bureau's Position on Discovery and Scheduling**

16 The Parties discussed at the status conference before Judge Eick the scope of
17 discovery and the status of pending discovery demands. Taking into account Judge
18 Eick's rulings and comments about the proper use of discovery and his availability
19 to handle discrete discovery issues as they arise, the Bureau believes that the
20 Parties can meet this Court's request for a more aggressive scheduling proposal
21 than previously submitted. The Bureau rejects the Defendants' suggestion that the
22 large volume of victimized consumers demands such long and broad discovery,
23 particularly where, as here, the Defendants collectively possess all or most of the
24 relevant information.

The Bureau proposes the following schedule for these cases, noting that initial disclosures under Federal Rule of Civil Procedure 26(a)(1) have been made by all Parties:

Event	Bureau's Proposal
Deadline to Disclose Expert Witnesses Under Rule 26(a)(2)(B) and Produce Expert Reports	September 7, 2017
Deadline to Disclose Rebuttal Expert Witnesses and Produce Rebuttal Expert Reports	October 19, 2017
Deadline to Complete Discovery	November 9, 2017
Deadline for Filing Dispositive Motions (each party expects to file a motion under Rule 56)	January 25, 2018

2. Defendants' Position on Discovery and Scheduling

At the May 26, 2017 hearing, Judge Eick and the Parties discussed the scope of discovery and the status of pending discovery demands provided. Judge Eick commented that the scope of discovery would depend in large part on the scope of the Bureau's claims and encouraged counsel for the Bureau and the Defendants to discuss how the Bureau intended to present its case and the Defendants intended to defend that case, so that the parties could present better estimates of the time needed to conduct required discovery.

Because of inconsistencies in the Bureau's disclosures and Amended Complaints on the relief it is seeking, and for clarification, Judge Eick directed the Bureau to memorialize its agreement to restrict the scope of its claimed remedies by stipulation to be filed by June 12, 2017. (ECF No. 89). Other than as set forth above, Judge Eick did not impose any specific limitations on, or otherwise define, the scope of discovery.

1 Presently, the Bureau's only articulation of its claims is quite broad,
2 involving hundreds of thousands of consumer transactions; thousands of third-
3 party lead generators, lenders, other lead purchasers and vendors; an expansive
4 time period; thousands of potential alleged misrepresentations; and untold number
5 of loan forms, fees and rates. Third parties, and not the Defendants, hold a
6 substantial volume of the documents related to the Bureau's claims, along with the
7 testimony that the Bureau will need to prove its claims. Given the current broad
8 nature of the Bureau's claims, the Defendants expect to conduct discovery on the
9 following subjects, within the scope of allowable discovery, the timeline for which
10 is outlined in the table below:

- 11 • Documents, testimony and witness statements obtained during the
12 Bureau's investigation of T3;
- 13 • Each transaction, consumer, lead generator, lead purchaser and lender
14 allegedly involved in any violations of the Act;
- 15 • Communications between consumers and lenders, prospective lenders,
16 and other lead purchasers;
- 17 • Credit histories and loans obtained by alleged affected consumers;
- 18 • Each loan made to alleged affected consumers, as well as the fees and
19 interest paid on those loans;
- 20 • Each representation made to the alleged affected consumers that serve
21 as the basis of the Bureau's claims;
- 22 • Conduct of actual or prospective lead generators, lead purchasers,
23 lenders, vendors, and "business partners and associates" to the extent
24 the Bureau claims such conduct forms a basis of, or evidences,
25 Defendants' alleged violation of the Act;
- 26 • The Bureau's deliberation and actions to define relevant conduct as

27 JOINT STIPULATION ADDRESSING MEDIATION AND DISCOVERY

“unfair” or “abusive” including its efforts to consult with other federal agencies in doing so;

- Evidence, if any, the Bureau claims represents damages suffered by, or restitution due to consumers, or that serves as a basis for any civil money penalty the Bureau seeks; and
- Testifying expert witnesses and their submissions upon which the other Party may rely.

The table below lists the Defendants’ proposed schedule:

Event	Defendants’ Proposal
Initial Disclosures	May 5, 2017 – Disclosures have been exchanged by all Parties
Conduct Formal ADR	Scheduled for June 28, 2017
Deadline to Complete Fact Discovery, including Depositions	July 9, 2018
Deadline to Disclose Expert Witnesses Under Rule 26(a)(2) and Produce Expert Reports	August 20, 2018
Deadline to Disclose Rebuttal Expert Witnesses and Produce Rebuttal Expert Reports	September 21, 2018
Deadline to Complete Expert Discovery	November 19, 2018
Deadline for Filing Motions, including Dispositive Motions (each party expects to file a motion under Rule 56)	December 28, 2018

To the extent the Bureau narrows its claims, whether pursuant to the stipulation the Bureau is required to file by June 12, 2017, or otherwise, the above schedule could be shortened.

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1 Dated: May 30, 2017

2 Respectfully submitted,

3 Consumer Financial Protection Bureau Soltman, Levitt, Flaherty & Wattles LLP

4
5 /s/ Barry Reiferson

6 Barry Reiferson (*pro hac vice*)

7 Attorney for Plaintiff,

8 Consumer Financial Protection Bureau

/s/ Thomas Rittenburg

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11 /s/ Herbert P. Kunowski

12 Patrick M. Kelly, SBN 45426

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14 Attorney for Defendants,

15 D and D Marketing, Inc., d/b/a

16 T3Leads; Grigor Demirchyan; and

17 Marina Demirchyan

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James A. Rolfes (*pro hac vice*)

Attorney for Defendant,

Davit Gasparyan, a/k/a David

Gasparyan

18 **Attestation Pursuant To Local Rule 5-4.3.4**

19 I attest that all other signatories listed, and on whose behalf the filing is submitted,
20 concur in the filing's content and have authorized the filing of this document.

21 CONSUMER FINANCIAL PROTECTION BUREAU

22 /s/ Barry Reiferson

23 Barry E. Reiferson (*pro hac vice*)

24 Attorney for Plaintiff Consumer Financial Protection Bureau

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